

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 175**

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**Introduced by Senator Corbett**  
(Coauthor: Assembly Member Wieckowski)

February 7, 2011

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An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Corbett. Public contracts: bid preferences: solar photovoltaic system.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would require a state agency that accepts bids or proposals for a contract for the purchase or installation of a solar photovoltaic system, as defined, to provide a ~~15%~~ 5% preference to a business that certifies that all of the solar panels installed as part of the solar photovoltaic system have been manufactured *or assembled* in California, in accordance with specified criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California faces the most severe economic downturn since
- 4 the Great Depression. Over two million Californians are out of

1 work and California’s unemployment rate is one of the highest in  
2 the nation.

3 (b) At a time of scarce state resources, state purchases should  
4 be used to stimulate our state economy and put people back to  
5 work.

6 (c) Former Governor Schwarzenegger’s Green Building  
7 Executive Order (S-20-04) mandated that state agencies evaluate  
8 the merits of using clean and renewable onsite energy generation  
9 technologies in all new building or large renovation projects.

10 (d) California has several companies that manufacture solar  
11 panels in the state, employing Californians and helping our  
12 economy.

13 (e) In the manufacturing of solar panels, it is the creation of the  
14 solar cells that convert sunlight into electrical power that generates  
15 the most value to the economy. Production of solar cells requires  
16 the highest percentage of skilled workers, the highest capital  
17 investment, and supports the highest amount of collateral  
18 infrastructure in the form of additional local businesses and jobs.

19 (f) California is the nation’s largest clean economy. More than  
20 12,000 clean technology companies, including solar manufacturers,  
21 call California home and are creating jobs at nearly 10 times the  
22 rate as the state’s other industries. A number of these companies  
23 have developed novel solar cell technologies and it is in the interest  
24 of the state to incentivize these companies to establish and grow  
25 manufacturing operations within the state. This will create both  
26 construction and permanent manufacturing jobs in California.

27 (g) It is the intent of the Legislature that whenever a solar  
28 photovoltaic system is placed on state buildings or property, there  
29 should be a preference for a solar photovoltaic system  
30 manufactured in California.

31 SEC. 2. Article 7 (commencing with Section 10390) is added  
32 to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,  
33 to read:

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35 Article 7. Preference for California-Manufactured Solar Panels  
36 on State Property

37

38 10390. For the purposes of this article:

1 (a) “Assemble,” “assembled,” or “assembler” means the  
2 manufacture or assembly of solar panels, which may include the  
3 installation of a solar photovoltaic system.

4 ~~(a)~~

5 (b) “Manufacture,” “manufactured,” or “manufacturing” means  
6 the transformation of raw materials into a solar panel, including  
7 both the manufacture of the solar cells and the final assembly of  
8 the solar panels.

9 ~~(b)~~

10 (c) “Power purchase agreement” means a financial arrangement  
11 in which a third-party developer owns, operates, and maintains a  
12 solar photovoltaic system, and a state agency agrees to site the  
13 system on its roof or elsewhere on its property and purchases the  
14 system’s electric output, not the system itself, from the third-party  
15 developer for a predetermined period of time.

16 ~~(c)~~

17 (d) “Solar cells” means the basic building block of photovoltaic  
18 (PV) technologies. “Solar cells” are functional semiconductors,  
19 made by processing and treating crystalline silicon or other  
20 photosensitive materials to create a layered product that generates  
21 electricity by absorbing light photons.

22 ~~(d)~~

23 (e) “Solar panels” means individual solar cells assembled into  
24 larger groups whereby the solar panel or module is the end product,  
25 and consists of a series of solar cells to capture and transfer  
26 solar-generated electricity, a backing surface, and a covering to  
27 protect the cells from weather and other types of damage.

28 ~~(e)~~

29 (f) “Solar photovoltaic system” means a system created by  
30 installing multiple solar panels in the same location to increase the  
31 electrical generating capacity. In a “solar photovoltaic system” the  
32 solar panels and solar cells represent the highest intellectual content  
33 and dollar-value items associated with solar photovoltaic energy  
34 generation.

35 10391. (a) A state agency that accepts bids or proposals for a  
36 contract for the purchase or installation of a solar photovoltaic  
37 system through a power purchase agreement, or through a direct  
38 purchase, shall provide a preference of ~~15~~ 5 percent to a business  
39 that certifies that all of the solar panels installed as part of such a  
40 solar photovoltaic system have been manufactured, ~~as defined in~~

1 ~~Section 10390~~, *or assembled* in this state. The preference shall be  
2 provided as follows:

3 (1) For solicitations to be awarded to the lowest responsible  
4 bidder meeting specifications, the preference to a business that  
5 certifies that all of the solar panels installed as part of the solar  
6 photovoltaic system have been manufactured *or assembled* in this  
7 state shall be ~~15~~ 5 percent of the bid price of the lowest responsible  
8 bidder meeting specifications.

9 (2) For solicitations to be awarded to the highest scored bidder  
10 based on evaluation factors in addition to price, the preference to  
11 a business that certifies that all of the solar panels installed as part  
12 of the solar photovoltaic system have been manufactured *or*  
13 *assembled* in this state shall be ~~15~~ 5 percent of the total score of  
14 the highest scored bidder.

15 (3) A preference awarded pursuant to paragraph (1) or (2) shall  
16 not be awarded to a noncompliant bidder and shall not be used to  
17 satisfy any applicable minimum requirements.

18 (4) In order to be eligible for the ~~15-percent~~ *5-percent* preference  
19 authorized pursuant to this section, a business shall submit all  
20 required substantiating documentation and information needed by  
21 the state agency to determine if the business is eligible for the  
22 preference, including, but not limited to, documentation regarding  
23 who the manufacturer *or assembler* of the solar photovoltaic system  
24 will be and the location or locations where the solar photovoltaic  
25 system will be manufactured *or assembled*.

26 (5) *If, after application of the preferences set forth in this*  
27 *section, the bids submitted by an assembler and a manufacturer*  
28 *are tied as the lowest responsible bid or the highest scored bid,*  
29 *then the tie shall be resolved in favor of the manufacturer.*

30 (b) The Department of General Services shall establish a process  
31 to verify that a business meets the criteria for the ~~15-percent~~  
32 *5-percent* preference.